

**CITY OF WASHINGTON TERRACE
ORDINANCE 09-02**

DEVELOPMENT AND PERMITS

**AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE, UTAH,
REPEALING THE REENACTING TITLE 15 OF THE WASHINGTON
TERRACE MUNICIPAL CODE PROVIDING REGULATIONS FOR
DEVELOPMENT; ADOPTING BUILDING CODES; FRANCHISES;
PUBLIC WORKS STANDARDS; EXCAVATION; PERMITS; MAKING
TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Washington Terrace (hereinafter “City”) is a municipal corporation, duly organized and existing under the laws of the state of Utah;

WHEREAS, *Utah Code Annotated* §§ 58-56-1, et. seq., as amended, contains the Utah Uniform Building Standards Act which requires each political subdivision in the state, which include that City, to adopt building codes as adopted by the Utah Uniform Building Code Commission (hereinafter “Commission”);

WHEREAS, the Commission continually adopts updated building codes and the City desires to amend its ordinances in order to accommodate such updates;

WHEREAS, the City previously adopted Title 15 of the *Washington Terrace Municipal Code*, relating to building codes and construction, and now finds it necessary amend and update such codes;

WHEREAS, the Planning Commission held its public hearing on March 26, 2009 to receive public comment on this Ordinance and subsequently gave its recommendation to APPROVE/DENY this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission at its public meeting on April 7, 2009, and now desires to act upon this Ordinance;

NOW, THEREFORE, be it ordained by the City Council of the City of Washington Terrace, Utah, as follows:

Section 1: Repealer. Any word, sentence, paragraph, or phrase in the *Washington Terrace Municipal Code* inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2. Enactment. Title 15 of the *Washington Terrace Municipal Code* entitled “Buildings & Construction” is hereby repealed and re-enacted to be named “Development and Permits” with chapters renumbered to read as follows:

Title 15 DEVELOPMENT AND PERMITS

Chapters:

- 15.02 REQUIRED PERMITS AND PERMIT FEES**
- 15.04 UNIFORM BUILDING STANDARDS**
- 15.06 SELECTED CODES ADOPTED**
- 15.08 INTERNATIONAL FIRE CODE**
- 15.10 COST RECOVERY FOR HAZARDOUS MATERIALS AND AGGRAVATED FIRE EMERGENCIES**
- 15.12 FRANCHISE AGREEMENTS**
- 15.14 EXCAVATION REGULATIONS**
- 15.16 UTILITY CONNECTION AND DISCONNECTION**
- 15.18 PUBLIC WORKS STANDARDS**
- 15.20 ADMINISTRATION AND ENFORCEMENT**

Chapter 15.02 REQUIRED PERMITS AND PERMIT FEES

Sections:

- 15.02.010. Building permit required.**
- 15.02.020. Building permit fees.**
- 15.02.030. Plan check fees.**
- 15.02.040. State surcharge.**
- 15.02.050. Building services and collection of fees.**
- 15.02.060. Excavation permit and fee required.**

15.02.010. Building permit required.

A building permit or comprehensive construction permit is required for the construction, alteration, repair, removal, modification, or occupancy of any structure within the city limits as provided in the applicable code as determined by the building official. In order to obtain a building permit or comprehensive construction permit an applicant must:

1. Obtain any approval that may be required from the city's land use authority.
2. Complete a building permit application and file such with the building official.
3. Pay the building permit fees and any other applicable fee.
4. Include the required building plans and all supporting documentation.
5. Comply with the municipal code and all applicable codes adopted by the city.
6. Comply with all state, county, and other governmental agency requirements.
7. Submit the subject the site for construction, alteration, repair, removal, modification, or occupancy to regular inspection until final occupancy is authorized.

15.02.020. Building permit fees.

Building projects shall be valued and building permit fees assessed by selecting the appropriate occupancy and type from the table entitled “Building Valuation Data” published in the most current issue of “Building Standards.” Using this valuation, the building permit fee shall be assessed by reference to the “Building Permit Fee Schedule” in the most current version of the applicable code.

15.02.030. Plan check fees.

1. Plan check fees. The plan check fees are in addition to the permit fees specified in Section 108 of the IBC. Plan check fees for reviewing and approving plans for all residential and non-residential building permits shall be as follows:
 - a. The actual cost of performing the review by the municipality; and,
 - b. Sixty-five percent (65%) of the amount for a building permit for the building.
2. Plan check fees on identical buildings.
 - a. The city’s fees for reviewing and approving identical plans shall be limited to the city’s costs of ensuring that the plans are identical and reviewing and approving minor variations between the two (2) identical buildings.
 - b. Plans shall be considered to be identical if:
 - i. The plans are substantially identical to plans that were previously reviewed and approved by the city;
 - ii. The plans describe a building that is in the same zone as the building described in the plans previously reviewed and approved; and,
 - iii. The plans describe a building that is subject to the same geological and meteorological conditions and the same law as the building described in the plans previously reviewed and approved.
2. Incomplete plans. When building permits plans and documents submitted are incomplete or changed so such an extent that additional plan check or review is needed, or when the project involves deferred items as defined in the IBC, an additional 5% plan check fee may be assessed.

15.02.040. State surcharge.

In accordance with *Utah Code Annotated* § 58-56-9(4), there is hereby imposed a one-percent (1%) surcharge on all building permits issued in the city. Each quarter, the city shall file a report of all surcharges which have been collected on building permits and shall remit eighty percent (80%) of that total to the State of Utah to the appropriate agency or authority as directed by the state.

15.02.050. Building services and collection of fees.

1. Service fees. Charges for other services to be provided by the building official shall be based upon the hourly rates indicated in the building code and assessed according to the following:
 - a. Renewal of expired permits where only final inspections are required, four hours.
 - b. Reinspection, one hour.
 - c. Inspection requested outside of normal working hours, minimum two hours.
 - d. Review of new products or materials for acceptance, minimum four hours.

- e. Request for verification of conformance to code for existing buildings, minimum one hour.
 - f. The building official may determine charges for other services provided for which fees are not indicated.
- 2. Collection of fees.
 - a. The building official shall collect at the time of issuance of the building permit or comprehensive construction permit, the following:
 - i. Building permit and plan check fees.
 - ii. Outstanding development fees, including site plan subdivision or related fees.
 - iii. Planning, inspection and engineering costs
 - iv. Connection fees for such services as water and sewer.
 - v. Impact fees.
 - vi. Other lawful fees imposed by the city.
 - b. All fees shall be paid by applicant before the issuance of a building permit by the building official. If additional fees are required after issuance, such fees shall be paid prior to issuance of occupancy permit. A permit issued without payment of the fees provided in this chapter may be suspended by the building official until the necessary fees are paid.
 - c. Use of fees collected in accordance with this title shall be in accordance with law.
- 3. Construction without a permit. When a person engages in any building activity that requires a building permit and fails to obtain such permit, in addition to the fee provided in this chapter, the building official may assess a penalty equal to fifty percent (50%) of the building permit fee.

15.02.060. Excavation permit and fee required.

- 1. Permit required. An excavation permit is required as provided in this title in order for any person seeking to dig up, break, excavate, tunnel, undermine or in any manner disturb any street, public way, or right-of-way, or encroach, obstruct or possibly interfere with the same.
- 2. Issuance. Applications for such permits shall be issued in accordance with this title by the public works director, or other city employee authorized by the city manager, after applicant obtaining any approval that may be required from the city's land use authority.
- 3. Fee. Applicant shall pay any excavation fee and provide the required certificate of insurance, security, and other guarantee as provided in this title.

Chapter 15.04
UNIFORM BUILDING STANDARDS

Sections:

- 15.04.010. Adoption of the applicable codes.**
- 15.04.020. IBC amendments.**
- 15.04.030. NEC amendments.**
- 15.04.040. IPC amendments.**

15.04.050. IMC amendments.

15.04.060. Automatic updates.

15.04.010. Adoption of the applicable codes.

1. In accordance with the “Utah Uniform Building Standards Act” set forth in *Utah Code Annotated* § 58-56-4(2)(a) and R156-56-701, the City of Washington Terrace, Utah, hereby adopts the following codes as specified to govern all construction performed in the City of Washington Terrace:
 - a. The most current edition of the *International Building Code* (IBC) as modified by amendments adopted in accordance with the Utah Administrative Code together with standards incorporated into the IBC by reference, including but not limited to, the most current edition of the *International Energy Conservation Code* (IECC), and the most current edition of the *International Residential Code* (IRC), as promulgated by International Code Council and adopted by the Utah Uniform Building Code Commission.
 - b. The most current edition of the *National Electrical Code* (NEC), as promulgated by National Fire Protection Association and adopted by the Utah Uniform Building Code Commission.
 - c. The most current edition of the *International Plumbing Code* (IPC), as promulgated by International Code Council and adopted by the Utah Uniform Building Code Commission.
 - d. The most current edition of the *International Mechanical Code* (IMC), together with all applicable standards set forth in the most current edition of the *International Fuel Gas Code* (IFGC) which were formerly included in the IMC and adopted by the Utah Uniform Building Code Commission.
2. All of the Codes specified above are hereby incorporated by this reference as part of the *Washington Terrace Municipal Code* as if fully set forth herein.

15.04.020. IBC amendments.

The IBC adopted in section 15.04.010 of this chapter is hereby amended in accordance with the state-wide amendments contained in R156-56-704 of the *Utah Administrative Code*. All of those amendments included in R156-56-704, and said amendments are hereby incorporated into the *Washington Terrace Municipal Code* by this reference.

15.04.030. NEC amendments.

The NEC adopted in section 15.04.010 of this chapter is hereby amended in accordance with the state-wide amendments contained in R156-56-705 of the *Utah Administrative Code*. All of those amendments included in R156-56-705, and said amendments are hereby incorporated into the *Washington Terrace Municipal Code* by this reference.

15.04.040. IPC amendments.

The IPC adopted in section 15.04.010 of this chapter is hereby amended in accordance with the state-wide amendments included in R156-56-706, and said amendments are hereby incorporated into the *Washington Terrace Municipal Code* by this reference.

15.04.050. IMC amendments.

The IMC adopted in section 15.04.010 of this chapter is hereby amended in accordance with the state-wide amendments contained in R156-56-704, and said amendments are hereby incorporated into the *Washington Terrace Municipal Code* by this reference.

15.04.060. Automatic updates.

1. The codes adopted in section 15.04.010 of this chapter shall be automatically updated whenever the Division of Occupational and Professional Licensing or the Uniform Building Code Commission shall adopt a new, code, a new edition of an existing code, or replacement code adopted pursuant to the authority granted in *Utah Code Annotated* §58-56-4(3), as amended, or any successor statute.
2. The amendments adopted in sections 15.04.020, 15.04.030, 15.04.040 and 15.04.050 of this chapter shall be automatically updated whenever additional amendments are adopted pursuant to Utah Code Ann. §58-56-7 and added to the amendments included in R-166-704, -705, -706 or -708.

**Chapter 15.06
SELECTED CODES ADOPTED**

Section:

- 15.06.010. *International Existing Building Code.***
15.06.020. *Uniform Housing Code.*
15.06.030. *Uniform Code for Abatement of Dangerous Buildings.*
15.06.040. *Uniform Code for Building Conservation.*
15.06.050. *Model Energy Code.*

15.06.010. *International Existing Building Code.*

In accordance with *Utah Code Annotated* §10-3-711, 1953, as amended, the city hereby adopts the most current edition of the *International Existing Building Code* as published by the International Code Council.

15.06.020. *Uniform Housing Code.*

In accordance with *Utah Code Annotated* §10-3-711, 1953, as amended, the city hereby adopts the most current edition of the *Uniform Housing Code*, published by the International Code Council.

15.06.030. *Uniform Code for Abatement of Dangerous Buildings.*

In accordance with *Utah Code Annotated* §10-3-711, 1953, as amended, the city hereby adopts the most current edition of the *Uniform Code for Abatement of Dangerous Buildings*, published by the International Code Council.

15.06.040. *Uniform Code for Building Conservation.*

In accordance with *Utah Code Annotated* §10-3-711, 1953, as amended, the city hereby adopts the most current edition of the *Uniform Code for Building Conservation*, published by the International Code Council.

15.06.050. Model Energy Code.

In accordance with *Utah Code Annotated* §10-3-711, 1953, as amended, the city hereby adopts the most current edition of the *Model Energy Code* published by the applicable entity.

**Chapter 15.08
INTERNATIONAL FIRE CODE**

Sections:

15.08.010. International Fire Code and Appendices.

15.08.020. Appendix revisions.

15.08.030. Limits on liquid petroleum gas storage.

15.08.010. International Fire Code and Appendices.

The *International Fire Code*, published by the International Fire Code Institute, in its most current edition as adopted by the state and as amended hereafter from time to time, is adopted as by this reference and incorporated in this code to the same extent and effect as though such code were fully set forth herein. The city also adopts all the Appendices of the most current edition of the *International Fire Code*, as updated and amended from time to time, by this reference and incorporated in this code to the same extent and effect as though the appendices were fully set forth herein, except where otherwise provided in this chapter.

15.08.020. Appendix amendments.

The Appendices of the *International Fire Code* is hereby amended as follows:

1. Section A101 General - Appeals.
 - a. The appeal authority provided in this title is hereby designated as the appeal authority to hear and decide all appeals relating to the *International Fire Code*.
 - b. Subsections A101.1 through A101.10 are hereby deleted.
2. Additions and deletions to section B104 - Fire Area.
 - a. B104.1 General. The fire area shall be the total floor area of all floor levels within the exterior walls, and under the horizontal projections of the roof of a building used to protect storage or use areas, except as modified in section B104.2 and B104.3.
 - b. B104.2 - Area Separation. Portions of buildings which are separated by fire walls without openings constructed in accordance with the *International Building Code* or the *International Residential Code*, where applicable, are allowed to be considered as separate fire areas.
3. Additions and deletions to section B105 - Fire Flow Requirements For Buildings.
 - a. B105.1-One And Two Family Dwellings. The minimum fire flow requirements for one and two family dwellings having a fire area which does not exceed 3600 square feet shall be 1000 gallons per minute. 5000 square feet shall be supplied by

the available fire flow and augmented by the fire department. If the required fire flow and flow duration regulation in table B105.1 is met for a dwellings unit in excess of having a fire area in excess of 3600 5000 square feet, then a fire sprinkler system shall not be required. shall not be less than that specified in table B105.1.

- b. Exception: Group "U" occupancies.
- c. B105.1.1 When water mains or other fixed systems, capable of supplying fire hydrants are available, fire hydrants shall be installed and spaced per Appendix C and Section 508 of the *International Fire Code*.

15.08.030. Limits on liquid petroleum gas storage.

Storage of liquified petroleum gases shall:

- 1. Not to exceed one hundred (100) gallons, in storage capacity, in all residential zones.
- 2. Not to exceed the allowable limits of the *International Fire Code*, as adopted by the city, in all other zones.

Chapter 15.10
COST RECOVERY FOR HAZARDOUS MATERIALS
AND AGGRAVATED FIRE EMERGENCIES

Sections:

- 15.10.010. Purpose.**
- 15.10.020. Definitions.**
- 15.10.030. Recovery authorization and procedures.**
- 15.10.040. No admission of liability.**
- 15.10.050. Action to recover expenses.**

15.10.010. Purpose.

This chapter shall provide procedures for recovering costs incurred by the city, county or other governmental agencies for assistance rendered in responding to hazardous materials and aggravated fire emergency responses in accordance with *Utah Code Annotated* §53-2-105, 1953, as amended, the provisions of this chapter and any other applicable provision of law.

15.10.020. Definitions.

As used in this Chapter:

- 1. "City" means the City of Washington Terrace, Utah.
- 2. "Hazardous materials emergency" means a sudden or unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct or immediate threat to public safety or the environment and requires immediate action to mitigate the threat.
- 3. "Aggravated fire emergency" means a fire proximately caused by the owner or occupier of property or other determined responsible party, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire or emergency event is:

- a. Caused or contributed to by the failure to comply with an order from any state, city, county, local agency, department, or governmental official;
 - b. Occurs as a direct result of a deliberate act in violation of law or the ordinances or regulations of the city, county or other government agency;
 - c. Results from arson or reckless burning as defined by the *Utah Code Annotated*; or
 - d. Results from a false alarm that results in a city, county or other fire unit being dispatched, and the person transmitting, or causing the transmission of the alarm, knows at the time of said transmission that no fire or related emergency exists.
4. “Expenses” means the actual costs to the city, county, or government and volunteer personnel, including worker’s compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, cost of materials, costs of disposal and the costs of any contract labor and materials.

15.10.030. Recovery authorization and procedure.

The city is hereby authorized and empowered to recover expenses incurred by virtue of the city’s, county’s or other governmental agencies’ or volunteers’ response to a hazardous materials emergency or aggravated fire emergency from any person, corporation, partnership or other individual or entity whose negligent or intentional act caused such an emergency. The cost recovery procedure is as follows:

1. Report. The Weber County Sheriff’s Department and/or the city’s fire department shall investigate and submit a report of findings to the city manager.
2. Review and notice. The city manager shall, based upon the report of findings and other available evidence and information, determine responsibility for the emergency or response as defined above and notify the responsible party by certified mail; return receipt requested, at the address of record of the responsible party as set forth in the report, of the determination of responsibility and the expenses to be recovered.
3. Itemized costs. The city manager shall include with the notice an itemization or list of the costs sought for recovery.
4. Appeal. The responsible party’s right to appeal is permitted as set forth in this title.

15.10.040. No admission of liability.

The payment of expenses determined owing under this chapter does not constitute:

1. An admission of liability or negligence in any legal action for damages; or
2. A criminal fine.

15.10.050. Action to recover expenses.

In the event the party or parties determined to be responsible for the repayment of expenses incurred due to the city’s, county’s or other local agencies’ response to such an emergency fail to make payment to the city and/or other governmental agencies within thirty (30) days after receipt of the notice and expiration of the appeal period, or after a final determination of the appeal authority, the city or other governmental agency may initiate legal action (or may authorize another governmental agency to initiate legal action) to recover from the determined responsible party the expenses determined to be owing, including the city’s reasonable attorney’s fees, court costs, in addition to the recovery amount sought.

Chapter 15.12 FRANCHISE AGREEMENTS

Sections:

15.12.010.	Findings.
15.12.020.	Definitions.
15.12.030.	Franchise required.
15.12.040.	Franchise agreement.
15.12.050.	Fees, payment, and reporting.
15.12.060.	Construction and technical requirements.
15.12.070.	Successor provider bound.
15.12.080.	Oversight and regulation.
15.12.090.	Rights of city.
15.12.100.	Obligation to notify.
15.12.110.	Jurisdiction and interpretation.

15.12.010. Findings.

The Washington Terrace City Council hereby makes the following findings:

1. Rights-of-way and public property. The city finds that rights-of-way and public property within the city:
 - a. Are critical to transportation and public services for the general public.
 - b. Are intended for public uses and must be managed and controlled consistent with that intent.
 - c. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare, and general economic well-being of the city and its citizens.
 - d. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation, and maintenance in the rights-of-way or on certain public property.
2. Compensation. The city finds that the city should receive fair and reasonable compensation for use of the rights-of-way and public property.
3. Local concern. The city finds that while utilities are in part an extension of interstate commerce, their operations also involve rights-of-way, municipal franchising, and vital business and community service, which are of local concern.
4. Promotion of services. The city finds that it is in the best interests of its taxpayers and citizens to promote the development of utilities, on a nondiscriminatory basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.
5. Franchise standards. The city finds that it is in the interests of the public to franchise and to establish standards for franchising providers in a manner that:

- a. Fairly and reasonably compensates the city on a competitively neutral and non-discriminatory basis as provided herein.
- b. Encourages competition by establishing terms and conditions under which providers may use the rights-of-way to serve the public.
- c. Fully protects the public interest and the city from any harm that may flow from such commercial use of rights-of-way.
- d. Protects the police powers and rights-of-way management authority of the city, in a manner consistent with federal and state law.
- e. Otherwise protects the public interests in the development and use of the city infrastructure.
- f. Protects public investment in improvements in the rights-of-way.

15.12.020. Definitions.

For the purpose of this chapter, the following terms shall have the meanings herein prescribed:

1. “Application” means the process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights-of-way of all, or a part, of the city. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a provider to the city concerning: the construction of a telecommunications system over, under, on or through the rights-of-way; the telecommunications services proposed to be provided in the city by a provider; and any other matter pertaining to a proposed system or service.
2. “City” means the City of Washington Terrace, Utah.
3. “Franchise” means the rights and obligation extended by the city to a provider to own, lease, construct, maintain, use or operate a system in the rights-of-way or on public property within the boundaries of the city. Any such authorization, in whatever form granted, shall not mean or include:
 - a. Any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances and laws of the city.
 - b. Any other permit, agreement or authorization required in connection with operations on rights-of-way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the city or a private entity, or for excavating or performing other work in or along the rights-of-way.
4. “Franchise agreement” means a contract entered into in accordance with the provisions of this chapter between the city and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised for use of public right-of-way or public property by a service provider; or any service, including but not limited such services as delivery or collection; or service that the municipality deems best served under a municipal service contract.
5. “Gross revenue” includes all revenues of a provider that may be included as gross revenue within the meaning of Chapter 26, Title 11 *Utah Code Annotated*, 1953, as amended. In the case of any provider not covered within the ambit of Chapter 26, Title 11

Utah Code Annotated, the definition of “gross revenue” shall be that set forth the franchise agreement.

6. “Right-of-way” means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the city.
7. “Service provider” or “provider” means the person or entity that is subject to a franchise agreement in the city.

15.12.030. Franchise required.

It shall be unlawful to:

1. Generally. Install, construct, or maintain any wires, cables, poles, pipes or other equipment for the provision of public utility service in, on, under, or over any street, alley, sidewalk, parkway or other public place in the city without first having obtained a franchise agreement for use of the public right-of-way from the city.
2. Telecommunications. Construct, maintain, or operate a telecommunications system or provide telecommunications services using the rights-of-way or public property without first obtaining a franchise before constructing an open video system or providing open video services via an open video system. By way of illustration and not limitation, a cable operator of a cable system or an open video system provider must obtain a franchise, and should any provider intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise. This part does not apply where to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeal.
3. Collection. Operate a residential solid waste collection service or other residential collection service in the city without first having obtained a franchise agreement for use of the public right-of-way from the city.
4. Provide a service that exceeds the scope of an existing franchise agreement entered with the city.

15.12.040. Franchise agreement.

1. Generally. A franchise agreement shall:
 - a. Be a written agreement negotiated by the city manager with the service provider.
 - b. Take the form of a contract approved by a resolution adopted by the city council.
 - c. Franchise agreements generally should not exceed a term of fifteen (15) years without good cause shown.
 - d. Prior franchise agreements shall continue until a new agreement is entered.
2. Application. A service provider seeking to use the right-of-way or public property in the city shall make application to obtain a franchise by filing a written request with the city recorder. The written request shall explain the scope of the use sought, proposed location, and other information relating to the proposed franchise.
3. City manager. The city recorder shall refer the application to the city manager who shall negotiate a proposed franchise agreement.
4. Land use authority. The city land use authority shall grant any approval in accordance with the municipal code relating to the use as may be required in the municipal code.

5. Contents. The contents of a franchise agreement shall include, but not be limited to, the following:
 - a. The term of the franchise.
 - b. Compensation in the form of franchise fee, use agreement fees, or other remuneration to be paid to the city.
 - c. Rights and limitations on the franchise.
 - d. Public use of the franchise.
 - e. An explanation relating to the service provided through the franchise.
 - f. A description of the area or customers who are to be served by the franchisee, including obligations, if any, to expand service.
 - g. Relocation of facilities upon request of city.
 - h. The commencement, interruption or discontinuation of customer service;
 - i. The quality of service received by customers;
 - j. Customer billing practices;
 - k. All reasonable land use requirements in the public right-of-way;
 - l. The handling of customer complaints.
 - m. Assignment of the franchise.
6. Approval. No franchise contract shall take effect until it has been approved by the city council.
7. Limitations on franchise. Any franchise or use agreement granted pursuant to this section shall remain subject to the right of the city to adopt, from time to time, legislation relating to service commencement, interruption or discontinuation of customer service; land use regulations; public works regulations; quality of service received by customers; billing practices; or the handling of customer complaints.
8. Scope. A franchise shall not convey title, equitable or legal, in the rights-of-way. A franchise is only the right to occupy rights-of-way on a non-exclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned, or subleased, except as may be expressly provided in a franchise agreement. Franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including the city's property. This section shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.
9. Existing providers. Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date of the ordinance codified in this chapter, shall request issuance of a franchise from the city within ninety days of the effective date of the ordinance codified in this chapter. If such request is made, the provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the city may pursue any remedy afforded at law or equity.
10. Regulatory approval. Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the city upon the written request of the city evidence of all such approvals, permits, authorizations or licenses.

15.12.050. Fees, payment, and reporting.

1. Application fee. The provider shall pay the city an application fee in order to offset costs to the city for application review, including any publication costs, relating to the proposed franchise and in addition to all other fees, permits, or charges. The fee shall be the actual costs of the review up to, but not to exceed, five-hundred dollars as a non-refundable application fee.
2. Excavation and building permits. The provider shall also obtain and pay any necessary excavation and building permit fees that may be required by the municipal code.
3. Future costs. A provider shall pay to the city, or to any third party as directed by the city, an amount equal to the reasonable costs and reasonable expenses that incurred for the third party service, including but not limited to legal fees, engineering, and consulting costs, in connection with any renewal or provider initiated renegotiation, or amendment to a franchise agreement, provided, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association. Any costs associated with any work to be performed by the city's public works department on behalf of the provider shall be borne by the provider.
4. Payments and reporting. Unless otherwise stated in a franchise agreement, within forty-five (45) days after the end of December, the service provider hereunder shall file with the city recorder a report of its gross revenue attributable to the sale and use of services specified hereunder rendered in competition with public utilities in the city, together with a computation of the fees or taxes levied hereunder against such service provider. Coincidental with the filing of such report, the business shall pay to the city the amount of the fee or tax due for the calendar month which is the subject of the said report.
5. Interest on late payments. In the event that any payment is not actually received by the city on or before the applicable date fixed in the franchise, interest thereon shall accrue from such date until received at the same interest rate amount charged for delinquent state taxes.
6. Taxes and assessments. The provider is responsible for all taxes and other assessments imposed by a taxing authority. Such taxes and assessments shall be in addition to any other fees in this chapter.
7. No accord and satisfaction. No acceptance by the city of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the city may have for additional sums payable.
8. No in lieu of payments. The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in a franchise agreement. By way of example, and not limitation, excavation permit fees and building permit fees to obtain space on the city-owned poles are not waived and remain applicable.
9. Continuing obligation and holdover. In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this chapter and the franchise, including, without

limitation, all compensation and other payment provisions throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the city as a result of such continued operation after the term, including, but not limited to, damages and restitution.

15.12.060. Construction and technical requirements.

1. General requirement. No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the city or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with city utilities.
2. Excavation. A provider shall obtain an excavation permit before commencing any work in the rights-of-way.
3. Quality. All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. If, at any time, it is determined by a regulatory agency, that any part of a providers system or operation is harmful to public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.
4. Licenses and permits. A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system or operation, including but not limited to any necessary approvals from persons and/or the city to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization prior to the commencement of the activity for which the permit, license, approval or authorization is required.
5. Relocation of the system or operation.
 - a. New grades or lines. If the grades or lines of any rights-of-way are changed at any time in a manner affecting the system or operation, then a provider shall relocate accordingly at providers expense.
 - b. Emergency relocation. The city may, at any time, in case of fire, disaster or other emergency, as determined by the city in its reasonable discretion, cut or move any parts of the system, operation, or appurtenances on, over or under the rights-of-way or public property of the city, in which event the city shall not be liable therefore to a provider. The city shall attempt to notify a provider as most practicable under the circumstances in the event of emergency relocation.
 - c. Temporarily relocation. A provider shall, upon prior reasonable written notice by the city or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person, other than the city, for any such movement of its system.

- d. Right-of-way alteration. When the city is changing a right-of-way and makes a written request, a provider is required to move or remove its system from the rights-of-way, without cost to the city. This obligation continues regardless of whether the provider has obtained an excavation permit.
6. Protect structures. In connection with the construction, maintenance, repair, upgrade or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the city and all designated landmarks. A provider shall obtain the prior written consent of the city to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the rights-of-way of the city required because of the presence of the system. Any such alteration shall be made by the city, or its designee, on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the city to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the city, any municipal structure or any other rights-of-way of the city involved in the construction, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.
7. No obstruction. In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the rights-of-way for pedestrian or any other form of traffic within the city without a traffic control plan duly approved by the city.
8. Safety. A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including traffic control, the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and other governing agencies. A provider shall comply with all applicable building and construction codes.
9. Repair. After written reasonable notice to the provider, unless, in the sole determination of the city, an eminent danger exists, any rights-of-way within the city which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the city at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the city shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights-of-ways intruded upon. The provider shall, within thirty days after receipt of the statement, pay to the city the entire amount thereof.
10. System Maintenance. A provider shall:
 - a. Install and maintain all parts of its system in a non-dangerous condition throughout the entire period of its franchise.
 - b. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the applicable building and construction codes, and all applicable other federal, state and local laws or regulations.
 - c. At all reasonable times, permit examination by any duly authorized representative of the city of the system and its effect on the right-of-way.

11. **Trimming of Trees.** A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over right-of-way so as to prevent the branches of such trees from coming in contact with its system.

15.12.070. Successor provider bound.

Unless otherwise stated in a franchise agreement, all rights and obligations of a provider are binding on any successor to the original franchisee.

15.12.080. Oversight and regulation.

1. **Insurance and security.** Unless otherwise agreed in the franchise agreement, a provider shall deposit with the city an irrevocable, unconditional letter of credit or surety bond as required by the terms of the franchise, and shall obtain and provide proof of the insurance coverage required by the franchise.
2. **Indemnity.** A provider shall also indemnify the city as set forth in the franchise.
3. **Oversight.** The city shall have the right to oversee, regulate, and periodically inspect the construction, maintenance, and upgrade of the system, and any part thereof. A provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the city at all times throughout the term, that a provider is in compliance with the franchise. A provider shall retain such records for not less than the applicable statute of limitations.
4. **Maintain Records.** A provider shall at all times maintain with the city:
 - a. A full and complete set of plans, records, and “as-built” drawings and, to the extent the drawings are placed in an electronic format, they shall be made available to the city in such electronic format as far as such is compatible.
 - b. Throughout the term of the franchise, a provider shall maintain complete and accurate books of account and records of the business, ownership, and operations of a provider with respect to the system in a manner that allows the city at all times to determine whether a provider is in compliance with the franchise. Should the city reasonably determine that the records are not being maintained in such a manner, a provider shall alter the manner in which the books and/or records are maintained so that a provider comes into compliance with this section. All financial books and records which are maintained in accordance with the regulations of any governmental entity that regulates utilities in the state of Utah, and generally accepted accounting principles shall be deemed to be acceptable under this section.
5. **Confidentiality.** If the information required to be submitted is proprietary in nature, involve critical infrastructure, or must be kept confidential by federal, state or local law, upon proper request by a provider, such information shall be classified as a protected record within the meaning of the Utah Government Records Access and Management Act (“GRAMA”), making it available only to those who must have access to perform their duties on behalf of the city, provided that a provider notifies the city of, and clearly labels the information which a provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the provider.

6. Record expense. All reports and records required under this chapter shall be furnished at the sole expense of a provider.
7. Right of inspection. For the purpose of verifying the correct amount of the franchise fee, the books and records of the provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the city at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records, provided that the city shall not audit the books and records of the provider more often than annually. The provider agrees to reimburse the city the reasonable costs of an audit if the audit discloses that the provider has paid ninety-five percent or less of the compensation due the city for the period of such audit. In the event the accounting rendered to the city by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty calendar days of written notice, it being agreed that the city may accept any amount offered by the provider, but the acceptance thereof by the city shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

15.12.090. Rights of city.

1. Enforcement. The city is responsible for enforcing and administering this chapter, and the city or its designee, as appointed by the city manager, is authorized to give any notice required by law or under any franchise agreement. Any franchise granted pursuant to this chapter shall contain appropriate provisions for enforcement, compensation, and protection of the public, consistent with the other provisions of this chapter, including, but not limited to, defining events of default, procedures for accessing the bond/security fund, and rights of termination or revocation.
2. Force Majeure. In the event a provider's performance of any of the terms, conditions or obligations required by this chapter or a franchise is prevented by a cause or event not within a provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.
3. Abandonment.
 - a. Abandoned system. The system shall be deemed to have been abandoned in the event that:
 - i. The use of any portion of the system is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the city to the last known address of provider;
 - ii. Any system has been installed in the rights-of-way without complying with the requirements of this chapter or franchise; or
 - iii. No franchise has been granted for the related infrastructure.
 - b. Removal of abandoned system. The city, upon such terms as it may impose, may give a provider written permission to abandon, without removing, any system, or portion thereof, directly constructed, operated or maintained under a franchise.

Unless such permission is granted or unless otherwise provided in this chapter, a provider shall remove within a reasonable time the abandoned system and shall restore, using prudent construction standards, any affected rights-of-way to their former state at the time such system was installed, so as not to impair their usefulness. In removing its plant, structures and equipment, a provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights-of-way in as good condition as that prevailing prior to such removal without materially interfering with any other provider, public utility, other franchise, or similar. The city shall have the right to inspect and approve the condition of the rights-of-way prior to and after removal. The liability, indemnity and insurance provisions of this chapter and any security fund provided in a franchise shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this section.

- c. Transfer of abandoned system to city. Upon abandonment of any system in place, a provider, if required by the city, shall submit to the city a written instrument, satisfactory in form to the city, transferring to the city the ownership of the abandoned system.
- d. Removal of above-ground system. At the expiration of the term for which a franchise is granted, or upon its revocation or earlier expiration, as provided for by this chapter, in any such case without renewal, extension or transfer, the city shall have the right to require a provider to remove, at its expense, all above-ground portions of a system from the rights-of-way within a reasonable period of time, which shall not be less than one hundred eighty (180) days. If the provider is the incumbent local exchange carrier, it shall not be required to remove its system, but shall negotiate a renewal in good faith.
- e. Leaving underground system. Notwithstanding anything to the contrary set forth in this chapter, a provider may abandon any underground system in place so long as it does not materially interfere with the use of the rights-of-way or with the use thereof by any public utility, cable operator or other person.

15.10.100. Obligation to notify.

Publicizing Work. Before entering onto any private property, a provider shall make a good faith attempt to contact the property owners in advance, and describe the work to be performed.

15.10.110. Jurisdiction and interpretation.

- 1. Police powers. To the full extent permitted by applicable law either now or in the future, nothing in this chapter or by granting a franchise shall be construed to limit local government from the lawful exercise of its police powers.
- 2. Applicability. This chapter shall apply to all franchises granted or renewed after the effective date of the ordinance codified in this chapter. This chapter shall further apply, to the extent permitted by applicable federal or state law to all existing franchises granted prior to the effective date of the ordinance codified in this chapter and to a provider providing services, without a franchise, prior to the effective date of the ordinance codified in this chapter.

3. Other applicable ordinances. A provider's rights are also subject to the police powers of the city to adopt and enforce other ordinances necessary to the health, safety and welfare of the public. A provider shall comply with all applicable general laws and ordinances enacted by a governing authority. In particular, all providers shall comply with the city's land use regulations.
4. Failure to enforce. A provider shall not be relieved of its obligation to comply with any of the provisions of this chapter or any franchise granted pursuant to this chapter by reason of any failure of the city to enforce prompt compliance, and a provider may not use such as a defense.
5. Governing law. This chapter and any franchise granted pursuant to this chapter shall be construed and enforced in accordance with the substantive laws of the state of Utah.

Chapter 15.14

EXCAVATION REGULATIONS

Sections:

- 15.14.010. Purpose.**
- 15.14.020. Definitions.**
- 15.14.030. Permit required and basis for issuance.**
- 15.14.040. General provisions.**
- 15.14.050. Emergency work.**
- 15.14.060. Permit fees.**
- 15.14.070. Permit contents and operation.**
- 15.14.080. Compliance with city standards and identification.**
- 15.14.090. Relocation of structures in public ways.**
- 15.14.100. Impact of excavation on existing improvements.**
- 15.14.110. Restoration of public property.**
- 15.14.120. Insurance requirements.**
- 15.14.130. Condition for security and guarantee.**
- 15.14.140. Work without a permit.**
- 15.14.160. Result of work that does not conform to public works standards.**
- 15.14.170. Tampering with traffic control devices.**
- 15.14.180. Conflicting provisions.**
- 15.14.190. Appeal.**

15.14.010. Purpose.

It is the intent of the City of Washington Terrace to enact laws necessary to regulate excavation within the city.

15.14.020. Definitions.

As used in this chapter, the following terms are defined in this section.

1. "Applicant" means any person who makes application for a permit.

2. “Business” means any place in the city in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.
3. “City” means the City of Washington Terrace, a municipal corporation of the State of Utah.
4. “City employee” means a city employee, or his/her authorized representative.
5. “Emergency” means any unforeseen circumstances or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility or public services.
6. “Engineering regulations,” “regulations,” “specifications,” and/or “design standards” mean the latest version of the *Public Works Standards and Technical Specification* published by the city engineer as adopted by the city.
7. “Failure” means a work site restoration which fails to meet city engineer specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of failure shall be further defined in the engineering regulations.
8. “Infrastructure provider” means a person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the right-of-way.
9. “Operator” means any person who provides service over a telecommunications system and directly or through one or more affiliates owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.
10. “Permittee” means any person which has been issued a permit and thereby has agreed to fulfill the requirements of this chapter.
11. “Person” means and includes any natural person, partnership, firm, association, provider, corporation, company, organization, or entity of any kind.
12. “Pipe driveway” means a driveway approach which uses a pipe or other means to bridge the gutter.
13. “Private drain line” means a pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring, or storm water, or condensate into the public drainage system.
14. “Property owner” means person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.
15. “Provider” means an operator, infrastructure provider, reseller, system lessee, or public utility company.
16. “Public utility company” means any company subject to the jurisdiction of the Utah State Public Service Commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility product or services for use by the general public.
17. “Public way” means and includes all public rights-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. It does not, however, include utility easements not within public ways of the city.

18. “Reseller” refers to any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights-of-way.
19. “Resident” means the person or persons currently making their home at a particular dwelling.
20. “Storm drain” means a dedicated pipe, conduit, water way, or ditch installed in a right-of-way or easement for the transmission of storm and drainage water. This term does not include private drain lines.
21. “System lessee” refers to any person that leases a system or a specific portion of a system to provide services.
22. “System” means all pipes, lines, conduits, manholes, poles, antennas, transceivers, amplifiers, electronic devices, equipment, wire and appurtenances owned, leased, or used by a provider located in the construction, ownership, operation, use or maintenance of a service system of any kind.
23. “Work site restoration” means and includes the restoring of the original ground or paved hard surface area to comply with engineering regulations, and includes but is not limited to repair, cleanup, backfilling, compaction, and stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit.

15.14.030. Permit required and basis for issuance.

1. Excavation generally. No property owner or his/her agent shall allow or engage in any excavation, grading, or fill activity unless the property owner or his/her agent has obtained any required land use permit, including compliance with the applicable storm water regulations relating to excavation. A property owner is required to obtain an excavation permit for any excavation that exceeds 20 yards, or is more than two (2) feet in depth. This sub-section does not apply to excavation that is part of a duly approved site plan or subdivision, a duly issued building permit, or uses in conjunction with a duly issued land use permit where a grading plan is required or waived. Industry standard excavation procedures shall be followed for all excavations.
2. Excavation in the public way. Any person desiring to perform work of any kind in a public way within the city, is required to obtain an excavation permit and shall make application to the city for such permit.
3. Basis for issuance. The following factors shall be considered by the city in issuing or denying a excavation permit:
 - a. The capacity of the public way to accommodate the facilities or structures proposed to be installed in the public way.
 - b. The capacity of the public way to accommodate multiple wire in addition to cables, conduits, pipes or other facilities or structures of other users of the public way, such as electrical power, telephone, gas, sewer and water.
 - c. The damage or disruption, if any of public or private facilities, improvements, or landscaping, including, but not limited to, those previously existing in the public way.

- d. The public interest in minimizing the cost and disruption of construction from numerous excavations of the public way.
- e. Best management practices for storm water management to be used during the excavation, and the storm water pollution and prevention plan to be followed as such may be required.
- f. Other factors relating to the specific excavation request that may not be contemplated until the excavation permit is requested.

15.14.040. General provisions.

1. Application. No permit shall be issued until an application for a permit is filed with the city on a form or forms to be furnished by the city. Property owners and/or tenants for whom work is being done shall be responsible for obtaining the necessary permit(s), provided, however, contractors may obtain permit(s) in the contractor's name.
2. Eligibility. No person shall be eligible to apply for or receive permits to do work within the public ways of the city, except the following:
 - a. Contractors licensed by the state.
 - b. System providers.
 - c. Property owners installing, replacing, or maintaining less than five hundred square feet or one hundred linear feet of sidewalk, curb, and gutter, or driveway approach, or other work approved by the city, upon a portion of the public way adjacent to their residence which work shall be performed by state licensed contractors.
 - d. Persons offering a service which requires occupation of the public way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.
3. Denial based on past performance. The city may deny the issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance that in the opinion of the city they will not consistently conform to the engineering regulations, specifications, design standards, or the requirements of this chapter.
4. Plan and drawings. When necessary, in the judgment of the city, to fully determine the relationship of the work proposed to existing or proposed facilities within the public ways, or to determine whether the work proposed complies with the engineering regulations, construction specifications and design standards, the city may require the filing of engineering plans, specifications and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.
5. Commencement. It is unlawful for any person to commence work upon any public way until the city has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary in this chapter.
6. Appeal. The disapproval or denial of an application by the city may be appealed as provided in this title.

7. Inspections. In approving or disapproving work within any public way, or permits therefor, in the inspection of such work; in reviewing plans, sketches or specifications; and generally in the exercise of the authority conferred upon city employees by this chapter, the city shall act in such manner as to preserve and protect the public way and the use thereof, but shall have no authority to govern the actions or inaction of permittees and applicants or other persons which have no relationship to the use, preservation or protection of the public way.
8. Exemptions. So long as work conforms to other governing provisions of the municipal code, a permit is not required for:
 - a. Routine maintenance by a system provider or by the city that does not remove any material or disrupt any surface.
 - b. Repairing pot holes by the city.
 - c. Hand digging excavations for installation or repair of a system, sprinkler systems, or landscaping that does not disrupt paved surfaces in the public way.
9. Reciprocal permit. A holder of a state permit for work on state roads located within the city limits is not required to obtain a permit from the city under the provisions of this chapter, unless the work extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary. Reciprocal permits are limited as follows:
 - a. A permit issued by the city shall not be construed to permit or allow work on a state highway or road operated by another jurisdiction located within the city without a permit for the other entity.
 - b. The city shall have the right and authority to regulate work under permits issued by another governmental entity with respect to hours and days of work, and measures required to be taken by the permittee of such governmental entity for the protection of traffic and safety of persons and property.
10. General limitation. Nothing in this chapter shall be construed to impose any duty, implied or express, on the city or its employees, officers, agents or assigns, relative to the protection of traffic and safety of persons or property, arising out of the issuance of any permit issued by the city or by another government entity.

15.14.050. Emergency work.

1. Emergency conditions. Any person maintaining a system or facilities in the public way may proceed with work upon such without a permit when emergency circumstances demand the work to be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.
2. Notification. In the event that emergency work is commenced on or within any public way of the city during regular business hours, the city shall be notified within one-half hour from the time the work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall insure that work is accomplished according to city engineering regulations, the manual on uniform traffic control devices and other applicable laws, regulations, or generally recognized industry standards and practices.
3. After the fact permit. Any person commencing emergency work in the public way during other than business hours without a permit shall immediately thereafter apply for a permit

or give notice during the first hour of the first regular business day on which city offices are open for business after such work is commenced. A permit for such emergency work may be issued which shall be retroactive to the date when the work was begun, at the discretion of the city.

15.14.060. Permit fees.

1. Fees. The city shall charge and the permittee shall pay upon issuance of the permit, fees for costs associated with the work performed under the permit as outlined in the fee schedule adopted by the city by ordinance or resolution. Such costs could include:
 - a. Costs for reviewing the project and issuing the permit.
 - b. Inspections of the project.
 - c. Engineering fees and legal, including those incurred by the city before, during, or after project.
 - d. Deterioration of the public way or diminution of the useful life of the public way, including winter fees.
 - e. Costs to the city associated with the work to be done under the permit.
2. Non-discriminatory. All fees and costs shall be assessed in a nondiscriminatory manner.
3. Waiver. The city manager may waive permit fees or penalties or portion thereof provided for in this chapter, when he/she determines that such permit fee or penalty:
 - a. Pertains to construction or rehabilitation of housing for persons whose income is below the median income level for the city.
 - b. Pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the city's general plan, general plan element, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.

15.14.070. Permit contents and operation.

1. Contents. Each permit application shall state:
 - a. The name of the permittee.
 - b. The starting date and estimated completion date. Work shall be completed within five (5) days from the starting date or as determined by the city. Such determination shall be based upon factors reasonable related to the work to be performed under the permit. Such factors may include, in addition to other factors related to the work to be performed, the following:
 - i. The scope of work to be performed under the permit.
 - ii. Maintaining the safe and effective flow of pedestrian and vehicular traffic on the public way affected by the work.
 - iii. Protecting the existing improvements to the public way impacted by the work.
 - iv. The season of the year during which the work is to be performed as well as the current weather and its impact on public safety and the use of the public way by the public.
 - v. Use of the public way for extraordinary events anticipated by the city.
 - c. State the duration for the validity of the permit.

2. Notification. The city shall be notified by the permittee of commencement of the work within twenty-four (24) hours prior to commencing work.
3. Extension. If the work is not completed during such period, prior to the expiration of the permit, the permittee may apply to the city for an additional permit or an extension, which may be granted by the city for good cause shown.
 - a. The length of the extension requested by the permittee shall be subject to the approval of the city.
 - b. No extension shall be made that allows work to be completed in the winter period without payment of winter fees that include such things as the cost of replacing cold mix patches with hot mix.
4. Non-transferable. Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing contained in this chapter shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this chapter and under such permit.

15.14.080. Compliance with city standards and identification.

1. Standards. The work performed in the public way shall conform to the requirements of the:
 - a. Land use regulations.
 - b. Building codes and regulations
 - c. Public works standards
 - d. Construction specifications, plans, and drawing filed in conjunction with the applications.
 - e. Governing traffic control regulations, including the Manual on Uniform Traffic Control Devices (MUTCD), or other applicable standard used by the city.
2. Minimum disturbance standard. All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on the public way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the city; in which case the barricades, together with any necessary lights, flares or torches, must remain in place until the backfill work is actually commenced by the city. From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, torches, etc. The police department and fire department shall be notified at least twenty-four hours in advance of any planned excavation requiring street closure or traffic detour.
3. Identification. Where a job site is left unattended, before completion of the work, signage with minimum two inch high letters shall be attached to a barricade or otherwise posted at the site, indicating the permittee's name, or company name, telephone number, and after hours telephone number.

15.14.090. Relocation of structures in public ways.

1. Relocation. The city may direct any person or franchise owning or maintaining a system, facility, or structure in the public way to alter, modify or relocate such facilities or structures as the city may require as set forth in this chapter.
 - a. Types of systems. Specifically, sewers, pipes, drains, tunnels, conduits, pipe driveways, vaults, trash receptacles and overhead and underground gas, electric, telephone, telecommunication and communication facilities shall specifically be subject to a relocation directive issued in accordance with this section.
 - b. Costs of relocation. The person owning or maintaining the system, facility, or structure shall, at their own cost and expense and upon reasonable written notice by the city, promptly protect, or promptly alter or relocate such facilities or structures, or part thereof, as directed by the city.
 - c. Failure or refusal. In the event that such person refuses or neglects to conform to the directive of the city, the city shall have the right to break through, remove, alter or relocate such part of the facilities or structures without liability to such person. Failure or refusal to relocate after the issuance of a directive is a violation of this title.
 - d. Costs. Such person shall pay to the city all costs incurred by the city in connection with such work performed by the city, including also design, engineering, construction, materials, insurance, court costs, and attorney fees.
2. Basis for a relocation directive. Any relocation directive issued by the city shall be based upon the following:
 - a. Illegality. The facility or structure was installed, erected or is being maintained contrary to law, or determined by the city to be structurally unsound or defective.
 - b. Nuisance. The facility or structure constitutes a nuisance as defined under state statute.
 - c. Expired or revoked. The agreement under which the facility or structure was installed has expired or has been revoked.
 - d. General maintenance. The public way is proposed by the city to be maintained, repaired, or improved and such facilities or structures may pose a hindrance to such.
 - e. Grade. The grades or lines of the public way are to be altered or changed.
3. Police powers. Any directive of the city issued under this section shall be authorized in accordance with the city's police power. Unless an emergency condition exists, the city shall make a good faith effort to consult with the person regarding any condition that may result in a removal or relocation of facilities in the public way to consider possible avoidance or minimization of removal or relocation requirements and provide the directive as far enough in advance of the required removal or relocation to allow the person a reasonable opportunity to plan and minimize cost associated with the required removal or relocation.
4. Private superior rights. This section does not apply to facilities or structures originally located on private property pursuant to a private easement, which property was later

incorporated into the public way, only if that prior private easement grants a superior vested right.

5. Public necessity. The city may, at any time, in case of fire, disaster or other emergency, as determined by the city in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the public way, in which event the city shall not be liable therefor to a person. In the event of an action based upon public necessity, the city shall notify the system operator as soon as practicable under the circumstances.

15.14.100. Impact of excavation on existing improvements.

1. Temporary sidewalks and ramps. If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Such temporary improvement shall be safe for travel and convenient for users, and consistent with city standards for such.
2. Temporary fill. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.
3. Drainage to be maintained. Existing or historical drainage channels, ditches, and gutters shall be maintained in accordance with the storm water regulations of the city. All drainage facilities shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the city prior to the blockage of the channel.
4. Restoration of private property.
 - a. Private property. At any time a permittee disturbs the yard, residence or the real or personal property of a private property owner or the city, such permittee shall insure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work. The owner of any private property disturbed by excavation under this chapter has thirty (30) days from the date of completion of the work on his or her private property to notify the city of any deficiencies or be forever barred.
 - b. Costs. The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the permittee. Further, a permittee shall reimburse a property owner or the city for any actual damage caused by the permittee, its subcontractor, or its independent contractor, in connection with the disturbance of such property. However, nothing in this subsection shall require the permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the permittee remove, replace or relocate improvements associated with the service provided by the permittee to the property owner and when the permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the permittee on which the permittee relied to its detriment.
 - c. Restoration types. The following is an example list of specific restoration of private property included in this section:
 - i. Replacement of sod, lawn, shrubbery, flowers, trees, and similar landscaping.

- ii. Replacement of driveways, approaches, mail boxes, curbing, and related improvements.
 - iii. Repair of fencing.
 - iv. Repair, replace, and/or relocation of a system, equipment, cable, or other appurtenances.
 - v. Replacement of plastering, or the like.
 - d. Temporary restoration. Permittee may be required to temporarily relocate or move a piece of personal property or a fixture of a private property owner (such as a motor vehicle, fence, air conditioning, heating unit, or the like) in order to perform some sort of construction, maintenance or repair by the permittee.
 - e. Private property on public way. The requirements of this section do not apply to the removal by a permittee, of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the city granting the property owner the right to install a permanent structure on a public way, and such written permission has been recorded in the office of the county recorder.
5. Franchise. Nothing in this chapter shall be construed to limit the ability of the city's ability to regulate a franchise, including the removal of a permittee's system.
6. Subcontractors. The requirements imposed upon the permittee extend to any subcontractor or independent contractor that the permittee might employ to perform the tasks pursuant to the permit.

15.14.110. Restoration of public property.

The permittee shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the engineering regulations and public work standards and technical specifications promulgated by the city, and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by an authorized city employee.

15.14.120. Insurance requirements.

No permit shall be issued unless the applicant shall furnish to the city evidence that such applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions or with such alternative limits and provisions as may be approved by the city:

- 1. Policy amount. A minimum of one million (1,000,000) dollars combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than one million dollars in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two (2) times the required occurrence limit.
- 2. Commercial in nature. The coverage shall be in the nature of broad form commercial general liability coverage.
- 3. Limit adjustment. The city attorney may increase or decrease minimum insurance limits, depending on the potential liability of any project.
- 4. Hold harmless. The policy and the permit issued shall include:

- a. A hold harmless provision where the permittee agrees to save the city, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit.
 - b. The issuance and acceptance of any permit under this chapter shall constitute such an agreement by the permittee to the city hold harmless.
 - c. This chapter shall neither be construed as imposing upon the city, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this chapter; nor shall the city, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.
- 5. Coverage.
 - a. All policies shall include the city, its employees, officers, officials, agents, volunteers and assigns, as insureds. Any reference to the “city” shall include the city, its employees, officers, officials, agents, volunteers and assigns.
 - b. The coverage shall be primary insurance as respects the city, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the city, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the permittee’s insurance and shall not contribute to or with it.
 - c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the city, its employees, officers, officials, agents, volunteers, and assigns.
 - d. Coverage shall state that the permittee’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.
 - e. Underwriters shall have no right of recovery or subrogation against the city, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
 - f. The insurance companies issuing the policy or policies shall have no recourse against the city for payment of any premiums due or for any assessments under any form of any policy.
 - g. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested sent to the city.
 - h. Each policy shall be endorsed to indemnify, save harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the permittee, his/her subcontractor or agent, whether or not the work has

been completed and whether or not the right-of-way has been opened to public travel.

- i. Each policy shall be endorsed to indemnify, hold harmless and defend the city, and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit including, but not limited to falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right-of-way is opened for public use.
- j. Insurance is to be placed with insurers with an AM Best rating of no less than an A carrier, with a rating of seven (7) or higher.
- k. The permittee shall furnish the city with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The city expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.
- l. If any of the required policies are, or at any time become, unsatisfactory to the city as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the city, the permittee shall promptly obtain a new policy, submit the same to the city for approval, and thereafter submit verification of coverage as required by the city. Upon failure to furnish, deliver and maintain such insurance as provided in this chapter, the city may declare the permit to be in default and pursue any and all remedies the city may have at law or in equity, including those actions outlined in this chapter.
- m. The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- n. Any deductibles or self-insured retentions shall be declared to and approved by the city. At the option of the city, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the city, its employees, officers, officials, agents, volunteers or assigns, or the permittee shall procure a bond, in a form acceptable to the city, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- o. A provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances:
 - i. If such company shall submit satisfactory evidence in advance that:
 - (1) It is insured in the amounts set forth in this chapter, or has complied with state requirements to become self insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and

- (2) Such coverage provides to the city the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter; or
- (3) The work to be performed under the permit issued to the applicant is to be performed by the city, in which case insurance or other risk transfer issues shall be negotiated between the city and the applicant by separate agreement.

15.14.130. Condition for security and guarantee.

1. Security. Except where otherwise stated in this chapter, each applicant, before being issued a permit, shall provide the city with an acceptable security in the form of cash escrow, deposit, or an pre-approved cash bond as determined by the city in the amount equal to 115% of the estimated cost of the project as determined by the city to serve as a guarantee for faithful performance of the work authorized by a permit granted pursuant to this chapter.
2. Form. The form of the security and the entity issuing the security shall be subject to the approval of the city attorney.
3. Franchisee. A franchisee approved by the city is not required to file any security if such is expressly stated in the franchise agreement.
4. Expectation for release of security. The security required by this section shall be conditioned as follows:
 - a. Compliance. Permittee shall fully comply with the requirements of the city ordinances and regulations, specifications and standards promulgated by the city relative to work in the public way, and respond to the city in damages for failure to conform therewith.
 - b. Prompt completion. That after work is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the public way to construction specifications, so as not to obstruct the public place or travel thereon more than is reasonably necessary.
5. Guarantee. Permittee shall guarantee the materials and workmanship for a period of one (1) year from completion and final inspection by the city of such work, with reasonable wear and tear excepted.
6. Construction schedule. Unless authorized by the city on the permit:
 - a. All paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the public works standards and technical specification within three (3) calendar days, and within seven (7) calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to engineering regulations.
 - b. In winter, a temporary patch must be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured.
 - c. If work is expected to exceed duration provided in this section, the permittee shall provide a detailed construction schedule for approval in conjunction with the

permit application. Such schedule shall address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

7. Forfeiture of security. In the event a permanent certification of occupancy has not been issued or a final inspection has not been performed by the city within two (2) years of the issuance of the permit, the security shall be forfeited to the city.

15.14.140. Work without a permit.

The performance of any excavation regulated by this chapter without a permit is a violation of this title. In the event that any person or persons is engaging in an excavation activity regulated by this chapter, the appropriate city employee may:

1. Stop work. Issue a stop order directed to any person or persons doing or causing any work to be done in the public way without a permit. An abutting property owner shall also be held responsible for causing work to be done without a permit.
2. Citation. Issue a citation for criminal and/or civil penalties as provided in this title.
3. Obtained permit and pay fee. Cause that any person found to be doing work in the public way without having obtained a permit, as provided in this chapter, obtain an after-the-fact permit and pay a permit fee equal to two (2) times the normal permit fee. For replacement work, where a fee is not normally charged, the normal permit fee for new construction shall apply.

15.14.150. Default in performance or performance in violation.

1. Grounds. Any permit may be revoked or suspended and a stop order issued by the city, after notice to the permittee that:
 - a. Permit was obtained by fraud, deceit, counterfeit, or misrepresentation.
 - b. There exists an unresolved violation of any condition of the permit, including such things as the basis for issuance, performing works that does not conform to permittee's plans, failure to maintain insurance, or inadequate security.
 - c. There exists an unresolved violation of a provision of this chapter.
 - d. There exists an unresolved violation of any provision of any other ordinance of the city or law relating to the work or project.
 - e. There exists an unresolved condition or act which constitutes, or may constitute, endangerment to life or property.
2. Notice. Notice of permit suspension or revocation, including a stop work order, is accomplished when:
 - a. The city has posted a stop work order at the location of the work; and
 - b. Written notice by U.S. Certified mail has been mailed, return receipt requested, to the contact address indicated by the permittee on the application.
3. Effect. A suspension or revocation by the city, including a stop order, shall take effect immediately upon compliance with the notice provisions of this section.
4. Emergency. In an emergency situation, the notice requirements may be waived or modified to fit the circumstances of the emergency and work may be stopped by the city immediately. After the fact notice shall be provided as best fits the circumstances.
5. Default. Whenever the city finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the permittee and

to the holder of the security, if there is security. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the city to be reasonably necessary for the completion of the work.

6. Completion by city and cost recovery. In the event that the holder of the security (or the principal), within a reasonable time following the giving of a notice of default (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the city for the cost of doing the work, as set forth in the notice, the city may perform the work, at the discretion of the city, with city forces or contract forces or both, and suit may be commenced by the city attorney against the contractor and bonding company and such other persons as may be liable, to recover the entire amount due to the city, including attorney fees, on account thereof that is not recovered from the security holder.

15.14.160. Result of work that does not conform to public works standards.

In the event that a permittee fails to conform to the public works standards and technical specification of the city, an authorized city employee may:

1. Suspend or revoke the permit.
2. Issue a stop order.
3. Order removal and replacement of faulty work.
4. Require an extended warranty period; and/or
5. Negotiate a cash settlement to be applied toward future maintenance costs.

15.14.170. Tampering with traffic control devices.

It is unlawful and a violation of this chapter for any person to maliciously or wantonly or without authorization and legal cause to remove or damage any traffic control device, barricade, or excavation site, or to tear down, remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site on any public way or private property.

15.14.180. Conflicting provisions.

Should there be a conflict between the provisions of this chapter and the provisions of any other part of the municipal code, ordinance, agreement, franchise, or other regulation governing excavations the more restrictive provision(s) shall apply.

15.14.190. Appeal.

A permittee may appeal any adverse action or decision of a city employee as provided in this title.

Chapter 15.16 UTILITY CONNECTION AND DISCONNECTION

Sections:

15.16.010. Utility connections require permit.

15.16.020. Utility disconnection – verification before demolition.

15.16.010. Utility connections.

It shall be unlawful for any utility company to provide service to any structure or building, or to service equipment or wiring for which a permit is required, until approval is granted by the building official. The building official may order utility services terminated at any location where the use is not authorized or is in violation of the building, zoning, or other ordinances of the city.

15.16.020. Utility disconnection – verification before demolition.

An applicant for a demolition permit shall submit a “service termination” to all utility service providers related to the demolition. No demolition permit shall be issued by the municipality until all utility service providers notify or otherwise confirm with the building inspector that utilities have been shut off and secured for the demolition.

**Chapter 15.18
PUBLIC WORKS STANDARDS**

Sections:

15.18.010. Public Works Standards and Technical Specifications.

15.18.010. Public Works Standards and Technical Specifications.

In conjunction with the public works department, the city engineer shall prepare and update from time to time the “*Washington Terrace City Public Works Standards and Technical Specifications*” which shall be presented to the city manager for administrative approval. Said administrative approval is effective immediately upon signature by the city manager of the approval page specified in the updated *Washington Terrace City Public Works Standards and Technical Specifications*.

**Chapter 15.20
ADMINISTRATION AND ENFORCEMENT**

Sections:

15.20.010. Administration.

15.20.020. Availability.

15.20.030. Appeals.

15.20.040. Violations and penalties.

15.20.010. Administration.

Administration of the provisions of this title is under the direction of the city department or city employee designed by the city manager or as designed by the municipal code.

15.20.020. Availability.

The city recorder shall maintain a copy of the codes adopted by this title in accordance with *Utah Code Annotated* §10-3-711(2), 1953, as amended. Such copy shall be available for use and examination by the public during regular business hours. Copies of the codes or portions of the codes shall be available to the public upon the payment of a reasonable copy fee as determined by the city.

15.20.030. Appeals.

The person filing the appeal shall file a written appeal with the city recorder within ten (10) calendar days of the date of the decision made by a city employee/official or land use authority enforcing any coded adopted in this title or other provisions of this title.

1. A written appeal must include:
 - a. The name, address, and daytime telephone number of the person making the appeal;
 - b. The date of the decision from which the appeal is made;
 - c. The name of the city official who made the decision;
 - d. A description of all facts and circumstances giving rise to the decision and the appeal, including all relevant documentation, plans, diagrams, and/or drawings regarding the matter of the appeal;
 - e. A copy of the written decision from which the person making the appeal is appealing. If no written decision exists, the person making the appeal shall submit an affidavit describing the decision; and,
 - f. A description of the relief requested, including a description of the decision the appellant feels should have been made.
2. Appeals not filed within ten (10) calendar days of the date of the decision from which the appeal is taken shall be forever barred.
3. Appeals which do not contain all of the information described in subsection 2 above shall be deemed incomplete and shall be returned to the person making the appeal. The person shall then have an additional ten (10) calendar days to submit a complete appeal.
4. Upon receiving a complete appeal, the city recorder shall notify the city official who made the original decision that an appeal has been filed and that city official shall have ten (10) calendar days to respond. Responses shall be in writing and may be accompanied by any additional documents, plans or drawings which were not submitted with the original appeal and which the person making the original decision believes will be beneficial in explaining the original decision. The response, if any, shall be submitted to the city recorder.
5. If the person making the original decision fails to submit a response within ten (10) calendar days of receiving notice of the appeal, the city recorder may presume that the person making the original decision will not file a response.
6. Upon receiving the response of the city official or the elapse of the ten (10) calendar days afforded to the city official for a response to the appeal, the city recorder shall refer the appeal and any response to the city's appeal authority who shall hear the appeal and render a decision.
7. In addition to this section, the appeal authority shall:

- a. Govern its meetings in accordance with section 2.28.020 of the *Washington Terrace Municipal Code*.
- b. Have no authority to hear an appeal regarding administrative provisions of the codes.
- c. Have no authority to waive any of the requirements of any of the codes.

15.20.040. Violations and penalties.

1. Criminal. A violation of any provision of this chapter constitutes a class “B” misdemeanor. The violation of any provision of a code adopted by this chapter constitutes a violation of this chapter. Each day a violation continues constitutes a separate offense.
2. Civil. In addition to a criminal liability, the city, as directed by the city manager or his/her designee, may also:
 - a. Seek any remedy provided by law or in equity, including extraordinary or injunctive relief.
 - b. Impose civil fines and penalties not to exceed \$250.00, per violation, per day that a violation continues.

Section 3: Effective Date. This Ordinance shall become effective immediately upon publication or posting.

PASSED AND APPROVED by the City Council on this ____ day of _____, 2009.

MARK C. ALLEN, Mayor

ATTEST:

AMY RODRIGUEZ, City Recorder

RECORDED this ____ day of _____, 2009.

PUBLISHED OR POSTED this ____ day of _____, 2009.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of *Utah Code Annotated* §10-3-713, 1953, as amended, I, the municipal recorder of the City of Washington Terrace, hereby certify that foregoing Ordinance was duly passed and published, or posted at 1)_____ 2)_____ and 3)_____ on the above referenced dates.

AMY RODRIGUEZ, City Recorder